

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

KRAUS USA, INC.,

Plaintiff,

v.

**SERGIO MAGARIK a/k/a SERGEI MAGARIK,
VONN, LLC a/k/a VONN LIGHTING, LLC
d/b/a VONN LIGHTING, VIGO INDUSTRIES,
LLC, LENNY VALDBERG and NIGEL
CHALLENGER**

Defendants.

VIGO INDUSTRIES LLC

Counterclaimant &
Third-Party Plaintiff

v.

KRAUS USA, INC.

Counterclaim
Defendant,

and

TODD ALEXANDER

Third-Party
Defendant.

No. 1:17-cv-06541-ER

Hon. Edgardo Ramos

**CONSENT ORDER DISMISSING
ALL CLAIMS, COUNTERCLAIMS
AND/OR THIRD PARTY CLAIMS
WITH PREJUDICE**

WHEREAS on August 28, 2017, plaintiff Kraus USA, Inc. (“Kraus”) filed a Complaint in this matter against defendants: (i) Sergio Magarik (“Magarik”); (ii) Vonn, LLC a/k/a Vonn Lighting, LLC d/b/a Vonn Lighting (“Vonn”); (iii) Vigo Industries, LLC (“Vigo”); (iv) Lenny Valdberg (“Valdberg”); and (v) Nigel Challenger (“Challenger”) (Magarik, Vonn, Vigo, Valdberg and Challenger shall collectively be referred to as “Defendants”) (See ECF #1);

WHEREAS on September 19, 2017, Magarik filed an Answer, Counterclaim and Third-Party Complaint in this matter against: (i) Kraus; (ii) Russell Levi (“Levi”); (iii) Michael Rukhlin;

(“Rukhlin”); (iv) Dan Lusby (“Lusby”); (v) Kraus China (“Kraus China”); and (vi) Enpower, LLC (“Enpower”) (Levi, Rukhlin, Kraus China, and Enpower shall collectively be referred to collectively as “Third-Party Defendants”) (*See ECF #21 and ECF #22*);

WHEREAS, on October 16, 2018, Magarik filed an Amended Counterclaim & Third-Party Complaint against Kraus and Third-Party Defendants (*See ECF #126 and ECF #127*); and

WHEREAS, on October 17, 2018, Vigo filed a Counterclaim against Kraus and Todd Alexander (“Alexander”) (*See ECF #128*);

WHEREAS on May 12, 2020, certain counts in Kraus’ Complaint were dismissed with prejudice and without prejudice (*See ECF #166*);

WHEREAS by Order dated September 30, 2019, Magarik’s claims against the Third-Party Defendants were dismissed (*See ECF #155*);

WHEREAS, on May 22, 2020, Kraus filed a First Amended Complaint against Defendants (*See ECF #168*);

WHEREAS for ease of reference, the claims that Kraus asserted in ECF # 1 and # 168 shall be referred to as the **“Kraus Claims”** and the claims asserted by any of the Defendants in ECF #21, #22, #126, #127 and #128 shall be referred to as the **“Vigo Claims”**;

WHEREAS all the parties to this Consent Order shall be collectively referred to as “the Parties”;

WHEREAS the Parties have agreed to dismiss any and all of the Kraus Claims and all of the Vigo Claims remaining in this matter with prejudice and without attorneys’ fees and costs;

WHEREAS the Parties agree to forego the right to seek appeal from any Orders issued in this case though the date of this Consent Order; and

WHEREAS the Parties now jointly submit this Consent Order for approval and entry by the Court to fully settle and resolve any and all of the Kraus Claims and the Vigo Claims;

IT IS HEREBY RESOLVED, CONSENTED TO AND ORDERED AS FOLLOWS:

1. Any and all claims and causes of action asserted in this action, and/or that could have been asserted in this action, by the Parties against one another are hereby **DISMISSED WITH PREJUDICE**, without attorneys' fees and without costs.

2. This Consent Order of dismissal shall have no effect whatsoever on the appeal in the separate matter captioned *Magarik v. Kraus USA, Inc., et. al.*, currently pending before the New York Supreme Court, Appellate Division, Second Department under Docket # 2020-04299, Docket # 2020-04302 and Docket # 2020-04303 ("the 1118 Action Appeal") involving Sergio Magarik's ("Magarik") appeal of the trial court decision in the matter captioned *Magarik v. Kraus USA, Inc., et. al.*, Index # 606128/2015 (Sup. Ct. Nassau County); ("the 1118 Action").

3. This Consent Order of dismissal shall have no effect whatsoever upon the rights and claims of any party to the 1118 Action and the 1118 Action Appeal, and all such rights and claims are hereby expressly reserved, including any and all of Magarik's claims and rights under Section 1118 of New York's Business Corporation Law (the "Section 1118 Claim") asserted in the 1118 Action and 1118 Action Appeal, including but not limited to any further appeals or proceedings involving the 1118 Action and/or the 1118 Action Appeal..

4. The Clerk of the Court is hereby directed to close the file on this Action.

Dated: New York, New York
May 24, 2021

SO ORDERED:



Hon. Edgardo Ramos, U.S.D.J.

We hereby consent to the form and entry of the within Order:

FOX ROTHSCHILD LLP
*Attorneys for Plaintiff, Third Party
Defendants and Todd Alexander*

By: 
Jordan Kaplan, Esq.

BRACH EICHLER, LLC
*Attorneys for Vonn LLC, Vigo Industries,
LLC, Sergio Magarik, Lenny Valdberg &
Nigel Challenger*

By: 
Bob Kasolas, Esq.